

COMMENTS OF DIANA L. MEY IN OPPOSITION TO PETITION OF ACA INTERNATIONAL

CD Docket No. 02-278

April 20, 2006

INTRODUCTION

I am a resident of the state of West Virginia writing in opposition to ACA International's request that the Commission adopt a position that the autodialer restrictions within the TCPA do not apply to calls from members of the debt collection industry to recover payments from consumers.

As a housewife with three young children fed up with having my family's dinner interrupted by unwelcome phone calls, I became aware of the TCPA and began carefully documenting unlawful calls to my home. My testimony about my experiences during public hearings before the Commission and my successful stand against Sears telemarketers garnered international publicity and I began to hear from consumers throughout the country who were also victims of abusive phone calls.

UNLAWFUL DEBT COLLECTION CALLS

I was contacted by a Connecticut man who shared a remarkable story about Sears debt collectors who called and did not believe him when he said he was not the debtor. For months they continued calling and even went so far as to make outrageous allegations about his sexual orientation. He was at his wits end by the time he called me and I put him in touch with top Sears officials. He eventually got a financial settlement as compensation for the abusive calls.

On one occasion I fielded a call from "Miss Dixon" of Chicago calling on behalf of First Bank regarding a "personal business matter" - industry-speak for debt collection. She said she was trying to reach my next-door neighbor whose name, address and phone number she willingly volunteered. She wanted me to go to his house and put a note on his mailbox. She further volunteered that it was the practice of First Bank to send someone to the local library to find the names, addresses and phone numbers of neighbors of an individual and then call to see if the neighbors might be willing go to that person's home and leave a note near their mailbox.

At one point my family moved and was assigned what we later realized was a recycled phone number. A debt collector called the day after we moved while we were in the midst of unpacking. I captured on tape what became the first in a series of aggravating prerecorded message calls for our phone number's previous owner:

FMA has an important message for the adult member of this household. Please call us toll free at 877-251-9647. Our hours of operation are Monday through Thursday 7 am to 9 pm central time and Friday 7 am to 4:30 pm central time.

The message played twice slowly and then disconnected. I immediately called the number and an operator responded:

Thanks for calling. This is Kim. Could you please verify the name on the Capital One account?

When I said I didn't know what she was talking about, Kim said she had been trying to reach Jo Ellen Barnhart. I explained we had just been assigned the phone number and it sounded like Barnhart may be the previous owner. Kim said FMA wouldn't call again.

Nevertheless, FMA called again with the identical prerecorded message three more times over the next few weeks. It is worth noting that FMA is a debt collector who ***holds membership in petitioner ACA International's organization.***

We also suspect numerous "Out of Area" calls we got during this same time were debt collectors looking for Barnhart; each time we picked up after 2 or 3 rings, the caller hung up on us. On another occasion someone called and asked for Barnhart but when I asked what the call was about, hung up.

On yet another occasion I got a prerecorded message that said nothing more than it was important to call 800-208-2234. I called the number immediately and an operator answered with: "Good afternoon. Could you hold on for a moment please?". When I asked, "Who is this?" I was put on hold for a full 36 seconds before the operator came back with this:

Thank you for waiting. How may I help you? (ME: Hi. Who is this?) This is ACEI. Did someone call you? (ME: Umm...I think so. What is ACEI?). Okay. I'm going to have to place you on hold again. Hold on. (On hold for a period of time) It's American Collections Enterprise. (ME: And what is that?) It's

American Collections. Did they leave a name or an extension? (ME: A number: D44621. What's this about? - no response for another ten seconds) Okay. And your name please? (ME: Well...I want to know what this is about.) What was that number again? (ME: D44621 - followed by another 12 seconds of silence) Let's see...what does that come up with? I come up with a Jo Lean Barnhart.

The conversation went on like this for a while until I was transferred to someone else and had to explain the whole recycled number story all over again before they agreed to stop calling. It is again worth noting that ACEI is a debt collector who holds membership in petitioner ACA International's organization.

After I explained the recycled number story to one debt collector, she accused me of covering for Barnhart. On that occasion I had to threaten legal action before she agreed not to call again.

Then our oldest son ran into financial difficulty and debt collectors began calling our home looking for him. The relentless, abusive calls I fielded while he was at work eventually weighed heavily in his decision to file for bankruptcy. What is perhaps most telling however, is that even after they were notified the debts were discharged, the local college, AT&T Wireless, Verizon and eventually the three collection agencies they hired: Bureau of Collection Recovery, Omnium Worldwide and KCA Financial - still tried to collect on the legally discharged debts. Even after my son called their attention to the discharge, the calls continued. It wasn't until he spent considerable time and energy writing a half dozen certified letters that threatened legal action that the calls stopped. It is worth noting that Bureau of Collection Recovery, Omnium Worldwide and KCA Financial are all debt collectors who hold membership in petitioner ACA International's organization.

RAMIFICATIONS OF GRANTING PETITIONER ACA'S REQUEST

It has recently come to my attention that debt collectors have begun mass autodialing cell phones with prerecorded messages. I believe this practice of using up the precious cell phone minutes of innocent non-debtors will increase dramatically if the Commission grants petitioner ACA's request and rules the autodialer restrictions within the TCPA do not apply to calls from debt collectors. The number of consumer complaints to regulatory authorities

about debt collectors is already well documented. I believe these complaints will also increase dramatically should ACA's request be granted.

CLARIFY THAT DEBT COLLECTION CALLS ARE PROHIBITED BY TCPA

Please protect consumers by clarifying that autodialed, prerecorded messages to wireless numbers by debt collectors **ARE** indeed prohibited by the TCPA. At least when a live person initiates calls, consumers stand a better chance of identifying the caller and perhaps getting the calls to stop. When debt collection calls are initiated by a faceless, automated dialer with a prerecorded message, that option is all but taken away and it becomes much more difficult to get the calls to stop, much less identify who is responsible for the call.

I thank the Commission for giving me this opportunity to comment.

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